

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE MAY 14, 2013

AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 485

**Introduced by Senator Calderon
(Coauthors: Senators Berryhill and Galgiani)**

February 21, 2013

An act to ~~amend~~ *amend, repeal, and add* Sections 12704 and 12709 of, and to ~~add~~ *add and repeal* Section 12703.1 ~~to~~, of, the Business and Professions Code, relating to weighmasters.

LEGISLATIVE COUNSEL'S DIGEST

SB 485, as amended, Calderon. Weighmasters: junk dealers and recyclers.

Existing law vests the Department of Food and Agriculture with general supervision of weights and measures and weighing and measuring devices sold or used in the state, and authorizes the Secretary of Food and Agriculture to exercise any power conferred upon the department or upon the State Sealer, who is the chief of the division of the department charged with the enforcement of the provisions relating to weights and measures. Existing law defines a weighmaster as any person, who, for hire or otherwise, weighs, measures, or counts any commodity and issues a statement or memorandum of the weight, measure, or count which is used as the basis for either the purchase or sale of that commodity or charge for service. Existing law requires a weighmaster to obtain a license and to pay a license fee, as prescribed. Existing law authorizes the secretary to refuse to grant a license, to

refuse to renew a license, or to revoke or suspend a license if, after a specified hearing, the secretary is satisfied that the applicant or licensee is not qualified to capably or reliably perform the duties of a weighmaster or has been found guilty of a misdemeanor relating to the regulation of weighmasters.

This bill would require the department to require a recycler or junk dealer, as defined, who is an applicant for a new weighmaster license or a renewal of a weighmaster license to furnish specified additional information on the application. The bill would require the department to issue a weighmaster license to a junk dealer or recycler upon receipt of an application for a new license or the renewal of a license that contains the appropriate information and fee. Upon issuance of a weighmaster license to a junk dealer or recycler, the bill would require the department to ~~immediately inform the county sealer who is then required to~~ make a thorough investigation of all of the information contained in the application within 90 days. ~~The bill would require the county sealer to report to the department if the county sealer determines that the application contains materially inaccurate information.~~ *specified time periods.* If the department determines that information submitted in the application is materially inaccurate, the bill would require the department to revoke the license issued to the junk dealer or recycler unless the junk dealer or recycler complies with these information requirements within 14 days of notice, as specified. The bill would provide that a junk dealer or recycler whose weighmaster license has been revoked is entitled to a hearing. The bill would require *a weighmaster who is a junk dealer or recycler who is a weighmaster* to pay an additional annual fee of \$500 to the department *for each location at which the weighmaster operates, as specified,* for the administration and enforcement of these provisions. ~~By imposing new duties on a county sealer, the bill would impose a state-mandated local program. The bill would authorize the secretary to enter into a cooperative agreement with any county sealer to carry out certain of these provisions. This bill would repeal these new provisions on January 1, 2019.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,~~

reimbursement for those costs shall be made pursuant to these statutory provisions:

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 ~~(a) The recordkeeping and reporting requirements for~~
4 ~~commercial scrap recycling transactions, as set forth generally in~~
5 ~~Article 3 (commencing with Section 21600) of Chapter 9 of~~
6 ~~Division 8 of the Business and Professions Code, are intended~~
7 ~~primarily to discourage metal theft and to promote honest~~
8 ~~competition within the scrap metal recycling industry.~~

9 ~~(b)~~

10 (a) According to the Division of Measurement Standards, the
11 agency responsible for enforcement of weights and measures laws
12 and regulations, the primary functions carried out by the division
13 are to ensure fair and honest competition for industry and accurate
14 value comparison for consumers.

15 ~~(c)~~

16 (b) Because the division and county sealers are responsible for
17 periodically inspecting and regulating all weighing and measuring
18 devices utilized by all scrap *metal* recyclers doing business within
19 the state, they are perfectly suited to review and verify the
20 ~~recordkeeping and reporting requirements for the scrap recycling~~
21 ~~industry.~~ *accuracy of the required information provided by the*
22 *recycler or junk dealer on the weighmaster license application.*

23 SEC. 2. Section 12703.1 is added to the Business and
24 Professions Code, to read:

25 12703.1. (a) In addition to any other requirements for issuance
26 of a license pursuant to this chapter, if the applicant is a recycler
27 or junk dealer as defined in Section 21601, the department shall
28 require the applicant to furnish all of the following information
29 accurately on any application for a new license or the renewal of
30 a license issued pursuant to this chapter:

31 (1) A copy of the applicant's current business license.

1 (2) A statement indicating that the applicant has either filed an
2 application for a stormwater permit or is not required to obtain a
3 stormwater permit.

4 (3) A statement indicating that the applicant has the equipment
5 necessary to comply with the photographic and thumbprinting
6 requirements for the purchase and sale of nonferrous materials
7 pursuant to Section 21608.5 or a statement indicating that the
8 applicant will not be purchasing or selling nonferrous materials
9 and is not required to comply with Section 21608.5.

10 (4) The name or names of any deputy weighmasters.

11 (b) The department shall issue a license to a junk dealer or
12 recycler upon receipt of an application for a new license or renewal
13 of a license that contains the information required by subdivision
14 (a) and that is accompanied by the appropriate fee.

15 (c) ~~Upon (1) On or before December 31, 2014, upon issuance~~
16 ~~of a license to a junk dealer or recycler, or renewal of such a~~
17 ~~license, the department shall immediately inform the county sealer~~
18 ~~who shall then make a thorough investigation of all of the~~
19 ~~information contained in the application within 90 days. The county~~
20 ~~sealer shall report to the department if the county sealer determines~~
21 ~~that the application contains materially inaccurate information,~~
22 ~~and, notwithstanding Section 12708, if the department determines~~
23 ~~that the information submitted pursuant to subdivision (a) is~~
24 ~~materially inaccurate, the department shall revoke the license issued~~
25 ~~to a junk dealer or recycler unless the junk dealer or recycler~~
26 ~~complies with the requirements of subdivision (a) within 14 days~~
27 ~~of notice from the department of a proposed revocation pursuant~~
28 ~~to this subdivision. A~~

29 (2) Notwithstanding Section 12708, if the department determines
30 that the information submitted pursuant to subdivision (a) is
31 materially inaccurate, the department shall revoke the license issued
32 to a junk dealer or recycler unless the junk dealer or recycler
33 complies with the requirements of subdivision (a) within 14 days
34 of notice from the department of a proposed revocation pursuant
35 to this subdivision. A

36 (3) A junk dealer or recycler whose license has been revoked
37 pursuant to this subdivision is entitled to a hearing conducted
38 pursuant to Chapter 5 (commencing with Section 11500) of Part
39 1 of Division 3 of Title 2 of the Government Code.

(d) The secretary may enter into a cooperative agreement with
any county sealer to carry out the provisions of this section.

1 ~~(e) This section shall remain in effect only until January 1, 2019,~~
2 ~~and as of that date is repealed, unless a later enacted statute, that~~
3 ~~is enacted before January 1, 2019, deletes or extends that date.~~

4 SEC. 3. Section 12704 of the Business and Professions Code
5 is amended to read:

6 12704. (a) A weighmaster shall pay to the department the
7 following license fee for each license year as applicable to the
8 operation:

9 (1) Seventy-five dollars (\$75) if the weighmaster is operating
10 at a fixed location.

11 (2) Thirty dollars (\$30) for each additional fixed location *at*
12 ~~which the weighmaster is operating at.~~

13 (3) Two hundred dollars (\$200) if the weighmaster is operating
14 at other than a fixed location.

15 (4) Twenty dollars (\$20) for each deputy weighmaster.

16 ~~(5) Five hundred dollars (\$500) if the weighmaster is a recycler~~
17 ~~or junk dealer as defined in Section 21601 or is performing services~~
18 ~~on behalf of a recycler or junk dealer.~~

19 (b) *In addition to the license fees set forth in subdivision (a), a*
20 ~~weighmaster who is a recycler or a junk dealer as defined in~~
21 ~~Section 21601 or is performing services on behalf of a recycler or~~
22 ~~junk dealer shall also pay to the department the following license~~
23 ~~fee for each license year as applicable to the operation:~~

24 (1) Five hundred dollars (\$500) if the weighmaster is operating
25 at a fixed location.

26 (2) Five hundred dollars (\$500) for each additional fixed
27 location at which the weighmaster is operating.

28 (3) Five hundred dollars (\$500) if the weighmaster is operating
29 at other than a fixed location.

30 ~~(b)~~

31 (c) “License year” means the period of time beginning with the
32 first day of the month the weighmaster is required to be licensed
33 in this state, and ending on the date designated by the ~~director~~
34 ~~secretary~~ for expiration of the license, or yearly intervals after the
35 first renewal.

36 ~~(e)~~

37 (d) “Location” means a premise on which weighing, measuring,
38 or counting devices are used.

(e) *This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.*

SEC. 4. *Section 12704 is added to the Business and Professions Code, to read:*

12704. (a) *A weighmaster shall pay to the department the following license fee for each license year as applicable to the operation:*

(1) *Seventy-five dollars (\$75) if the weighmaster is operating at a fixed location.*

(2) *Thirty dollars (\$30) for each additional fixed location at which the weighmaster is operating.*

(3) *Two hundred dollars (\$200) if the weighmaster is operating at other than a fixed location.*

(4) *Twenty dollars (\$20) for each deputy weighmaster.*

(b) *“License year” means the period of time beginning with the first day of the month the weighmaster is required to be licensed in this state, and ending on the date designated by the secretary for expiration of the license, or yearly intervals after the first renewal.*

(c) *“Location” means a premise on which weighing, measuring, or counting devices are used.*

(d) *This section shall become operative on January 1, 2019.*

~~SEC. 4.~~

SEC. 5. *Section 12709 of the Business and Professions Code is amended to read:*

12709. (a) *All license fees collected pursuant to this chapter shall be deposited in the Department of Food and Agriculture Fund to be expended by the department for the administration and enforcement of this chapter, except as provided in subdivision (b).*

(b) *License fees collected pursuant to ~~paragraph (5) of subdivision (a)~~ (b) of Section 12704 shall be deposited in a special account in the Department of Food and Agriculture Fund to be expended by the department for the administration and enforcement of Section 12703.1.*

(c) *This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.*

~~SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to~~

1 ~~local agencies and school districts for those costs shall be made~~
2 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
3 ~~4 of Title 2 of the Government Code.~~

4 *SEC. 6. Section 12709 is added to the Business and Professions*
5 *Code, to read:*

6 *12709. (a) All license fees collected pursuant to this chapter*
7 *shall be deposited in the Department of Food and Agriculture*
8 *Fund to be expended by the department for the administration and*
9 *enforcement of this chapter.*

10 *(b) This section shall become operative on January 1, 2019.*